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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,769	11/24/2003	Michael Garman	HAMBE 135	4908
31704 7590 03/07/2007 JOHN H. THOMAS, P.C. 536 GRANITE AVENUE RICHMOND, VA 23226			EXAMINER ALEXANDER, REGINALD	
			ART UNIT	PAPER NUMBER
			1761	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/720,769
Filing Date: November 24, 2003
Appellant(s): GARMAN ET AL.

John H. Thomas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 27 November 2006 appealing from the Office action mailed 29 March 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

Hamilton Beach/ Proctor-Silex, Inc.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

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5,560,284	Weidman et al.	10-1996
5,857,596	Lee	1-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-11 are rejected under 35 USC 103(a) as being unpatentable over Weidman et al. in view of Lee.

Weidman discloses a hot beverage maker, comprising: a stand 11; a removable brewed beverage tank 28 mounted on the stand (see figure 3 and col. 3, lines 22, 23 for teaching of tank being removable); a filter basket 18 mounted inside of the tank; a reservoir portion (lower section) of the tank; an outlet port 29 positioned at the bottom of the tank; a dispenser actuator 17 connected to the outlet port, wherein the actuator inherently includes some form of plug and stem arrangement as is well known in the art; a warming plate 71; a fresh water chamber 14; and a hot water shower head 50 connected via tube 48 to the water chamber.

Lee discloses a push button dispenser actuator including a plug 350 having a stem 362 and a seal ring 358, wherein the lower portion of the stem has a substantially inverted conical shape (see figures 3 and 4).

It would have been obvious to one skilled in the art to substitute the dispenser and actuator arrangement of Weidman with that disclosed in Lee, in order to provide an alternative means for dispensing liquid from the brewed beverage tank. One which will allow a user to dispense beverage with the use of a single hand as opposed to two hands.

(10) Response to Argument

Applicant argues that the brewed beverage reservoir of Weidman is “integrally” attached. Column 1, lines 55 and 56 of Weidman are cited as evidence of the integral connection of the reservoir. It has been held that the term “integral” is sufficiently broad to embrace constructions united by such means as fastening and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). Taking this into mind, a view of figure 3, shows the reservoir 28 being removably attached to the stand and a liquid reservoir by fastening means such as screws and by connected conduits. Thus, although it is stated in Weidman that the reservoir is “integrally” attached, such a phrase does not preclude the device from being removable.

Applicant, at page 9, lines 8-21, admits that the reservoir of Weidman can be removed with the use of several steps which Applicant defines as disassembly of the beverage maker. Applicant attempts, without merit, to define “removable” by saying it does not include disassembly.

Applicant goes on to say, by way of case law, that the teaching of removable must include functionality of the reservoir after it is removed. In response to this position, it is apparent that the reservoir of Weidman would remain functional after removal if placement of the dispensing actuator was returned.

Applicant argues that Lee fails to disclose a “stem” having a portion with a “substantially inverted conical shape”. A view of figures 3 and 4 of Lee discloses a valve rod 362, which is equivalent to Applicant’s broad recitation of a “stem”. The stem

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having a lower portion which includes apertures 368, 370 having a "substantially" inverted conical shape.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

RLA

27 February 2007

Conferees:

Milton Cano 
Kathryn Gorgos 